



February 16, 2007

## HOUSE BILL No. 1804

DIGEST OF HB 1804 (Updated February 14, 2007 8:07 pm - DI 75)

**Citations Affected:** IC 3-5; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-14; IC 5-10.1; IC 20-23.

**Synopsis:** Various election law matters. Makes the following changes: (1) Provides that an identification document issued by the Department of Defense that has an indefinite expiration date or an identification issued by an approved institution of higher learning is an acceptable proof of identification. (2) Provides that an individual confined to a long term care facility may not be challenged solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record. (3) Removes a requirement that certain instructions and notices used at the polls must be printed in braille. (4) Provides that if a voter's application for an absentee ballot is denied, the county election board must notify the applicant of the denial and tell the applicant how the application can be corrected and can be approved, if possible. (5) Permits all absentee ballot envelopes and related voter applications that will be sent to the same precinct to be enclosed in the same carrier envelope. (6) Provides for the counting of an absentee ballot received by the county election board before the close of the polls on election day if the ballot is not otherwise successfully challenged. (7) Makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law. (8) Permits a county election board to authorize casting absentee ballots only at satellite offices rather than at satellite offices and the clerk's office. (9) Requires an absentee voter to return the absentee ballot to the precinct election board or the county election board before the voter votes in person at  
(Continued next page)

**Effective:** Upon passage; January 1, 2007 (retroactive); July 1, 2007.

**Pierce, Richardson**

January 26, 2007, read first time and referred to Committee on Elections and Apportionment.  
February 15, 2007, amended, reported — Do Pass.

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the precinct. (10) Requires the counting of a ballot (other than an absentee ballot not initialed by the appropriate election officials) that has been marked and cast by a voter in compliance with election law but may otherwise not be counted solely as the result of the act or failure to act of an election officer unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. (11) Provides for an exemption from withholding Social Security taxes from amounts paid to election officials or workers that are less than \$1,300 per year. (12) Provides for the initiation of the change of a school corporation's organization plan if 10% of the active voters in the school corporation sign a petition for the change. (Under current law, 20% of the voters in a school corporation must support a petition for a change in the school corporation's organization plan.) (13) Permits a county election board to inspect the register or other recording device on an electronic voting system without obtaining the authority of the state recount commission. Repeals a statute imposing criminal penalties for the inspection of a voting system without the permission of the recount commission. (14) Provides that a voter who executes an affidavit at the polls and is indigent or has a religious objection to being photographed is not required to present proof of identification. (15) Provides that when a voter votes as an absentee voter, the voter's signature on the absentee ballot affidavit shall be compared with the signature on the voter's voter registration record.

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February 16, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1804

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 40.5. "Proof of identification" refers to a  
4 document that satisfies all the following:

5 (1) The document shows the name of the individual to whom the  
6 document was issued, and the name conforms to the name in the  
7 individual's voter registration record.

8 (2) The document shows a photograph of the individual to whom  
9 the document was issued.

10 (3) The document includes an expiration date, and the document:

11 (A) is not expired; or

12 (B) expired after the date of the most recent general election.

13 (4) The document was issued by **any of the following**:

14 (A) The United States. ~~or Notwithstanding subdivision (3),~~  
15 **a document issued by the United States Department of**  
16 **Defense, a branch of the uniformed services, the Merchant**  
17 **Marine, or the Indiana National Guard that:**

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(i) otherwise complies with the requirements of this section; and

(ii) has no expiration date or states that the document has an indefinite expiration date;

is sufficient proof of identification for purposes of this title.

(B) The state of Indiana.

(C) An approved institution of higher learning (as defined in IC 20-12-21-3).

SECTION 2. IC 3-5-4.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section applies to an absentee ballot cast by an individual confined in a long term care facility.**

**(b) A person may not challenge the right of an individual to vote at an election by absentee ballot solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record.**

SECTION 3. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.**

**(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.**

**(c) If:**

**(1) the voter is unable or declines to present the proof of identification; or**

**(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;**

**a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.**

**(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:**

**(1) sign the poll list; and**

**(2) receive a provisional ballot.**

**(e) A voter described by either of the following is not required to provide proof of identification before voting in a primary election:**

**(1) A voter who votes in person at a precinct polling place that is**

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located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in a primary election.~~

**(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:**

**(A) The voter is:**

**(i) indigent; and**

**(ii) unable to obtain proof of identification without the payment of a fee.**

**(B) The voter has a religious objection to being photographed.**

SECTION 4. IC 3-11-2-10, AS AMENDED BY P.L.58-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed at the top of the ballot. The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot, **unless you want to vote for any candidates of a political party other than the (political party name). If you want to vote for candidates for offices other than candidates of the (political party name) party, you must:**

**(1) make a voting mark on or in the square to the left of that candidate's name; or**

**(2) write in the name of the candidate on the ballot where write-in votes may be cast and make a voting mark on or in the square to the left of the candidate's name you write in.**

**If more than one (1) candidate is to be elected to an office, you must also make a voting mark on or in the square to the left of the names of the candidates of the (political party name) party for whom you want to vote for that office in addition to the names of the candidates you want to vote for who are not (political party name) candidates. DO NOT VOTE FOR MORE CANDIDATES FOR AN OFFICE THAN ARE TO BE ELECTED; IF YOU DO, THE VOTES FOR THE (POLITICAL PARTY NAME) CANDIDATES FOR THAT OFFICE WILL NOT BE COUNTED**

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**AND IT IS POSSIBLE THAT ALL THE VOTES YOU CAST FOR CANDIDATES FOR THE OFFICE WILL NOT BE COUNTED.**

If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) If the ballot contains an independent ticket described in section 6 of this chapter and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) The list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 5. IC 3-11-3-22, AS AMENDED BY P.L.164-2006, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) Each county election board shall have printed in at least 14 point type on cards in English, ~~braille~~, and any other language that the board considers necessary, the following:

(1) Instructions for the guidance of voters in preparing their ballots.

(2) Instructions explaining the procedure for write-in voting.

(3) Write-in voting notice cards that must be posted in each precinct that utilizes a voting system that does not permit a voter to alter the voter's ballot after making a voting mark for a write-in candidate so that the voter may vote for a candidate for that office whose name appears on the ballot.

(b) The write-in notice cards described in subsection (a)(3) must inform all voters that a voter:

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(1) who wants to cast write-in votes may cast the voter's ballot on the voting system required to be available to all voters in the precinct under IC 3-11-15-13.3(e); and

(2) may choose to cast the voter's ballot on the voting system described in subdivision (1) without being required to indicate to any individual that the voter wishes to cast a ballot on the voting system because the voter intends to cast a ballot for a write-in candidate.

(c) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards.

SECTION 6. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

(1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;

(2) the information set forth on the application appears to be true; and

(3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or

(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with Indiana or federal law; as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) ~~This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d);~~ If the application is denied,

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the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

**The notice must include information telling the applicant how the application can be corrected and can be approved, if possible.**

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

(e) If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 7. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds

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to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

**(e) A voter described by either of the following is not required to provide proof of identification before voting in an election:**

**(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. ~~is not required to provide proof of identification before voting in an election.~~**

**(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:**

**(A) The voter is:**

**(i) indigent; and**

**(ii) unable to obtain proof of identification without the payment of a fee.**

**(B) The voter has a religious objection to being photographed.**

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection (k), the voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

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(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(j) If, in a precinct governed by subsection (g):

(1) the poll clerk does not execute a challenger's affidavit; or

(2) the voter executes a challenged voter's affidavit under section 22.1 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

(k) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 8. IC 3-11-10-4, AS AMENDED BY P.L.198-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the ~~application for the absentee ballot~~ **voter's affidavit of registration**. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

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(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the ~~application for the absentee ballot~~ **voter's affidavit of registration**. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 9. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a)** If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. **The board may enclose in the same carrier envelope all absentee ballot envelopes and voter applications to be transmitted to the same precinct.**

**(b)** The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 10. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open. ~~and in sufficient time to enable~~ The precinct election boards ~~to shall~~ vote the ballots received during the time the polls are open. **Any ballots received by the precinct election board after the polls are closed shall be returned to the county election board for counting under section 14 of this chapter.**

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the

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county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) IC 3-11-4-12(a) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 11. IC 3-11-10-14, AS AMENDED BY P.L.198-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Subject to section 11 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after the county election board has started the final delivery of the ballots to the precincts on election day **shall be delivered to the county election board for counting.**

(b) **An absentee ballot delivered to the county election board under subsection (a) shall be counted by the county election board if the ballot is not otherwise successfully challenged under this title.**

(c) **The election returns from the precinct shall be adjusted to reflect the votes on an absentee ballot required to be counted under subsection (b).**

(d) **Except as provided in subsection (e), absentee ballots received by the county election board after the close of the polls on election day are considered as arriving too late and need may not be delivered to the polls: counted.**

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(e) Absentee ballots received by the precinct election board as described in section 12(b) of this chapter after the close of the polls shall be returned to the county election board and be counted as provided in this section.

SECTION 12. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall do all of the following:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name.
- (3) Compare the signature upon the ~~application~~ **voter's affidavit of registration** with the signature upon the affidavit on the ballot envelope or transmitted affidavit attached to the ballot envelope.

SECTION 13. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

- (1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and
- (2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than ~~twenty-nine (29)~~ **twenty-eight (28)** days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than ~~twenty-nine (29)~~ **twenty-eight (28)** days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

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(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

**(j) The county election board, by unanimous vote of the entire membership of the board, may adopt a resolution providing that absentee ballots be cast at satellite offices instead of in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2).**

SECTION 14. IC 3-11.5-4-11 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. At any time  
 2 after the couriers return the certificate under section 9 of this chapter,  
 3 absentee ballot counters appointed under section 22 of this chapter, in  
 4 the presence of the county election board, shall, except for a ballot  
 5 rejected under section 13 of this chapter:

6 (1) open the outer or carrier envelope containing an absentee  
 7 ballot envelope and application;

8 (2) announce the absentee voter's name; and

9 (3) compare the signature upon the ~~application with the signature~~  
 10 ~~upon the~~ affidavit on the ballot envelope or transmitted affidavit  
 11 **with the signature on the voter's affidavit of registration.**

12 SECTION 15. IC 3-11.5-4-10, AS AMENDED BY P.L.198-2005,  
 13 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: Sec. 10. Subject to section 7 of this chapter,  
 15 absentee ballots received by mail (or by fax or electronic mail under  
 16 IC 3-11-4-6) after ~~noon~~ **the close of the polls** on election day are  
 17 considered as arriving too late and may not be counted.

18 SECTION 16. IC 3-11.5-4-18 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. If a voter has not  
 20 returned an absentee ballot, the voter may vote in person. However,  
 21 before the voter may vote, the voter must return the ballot to the  
 22 **precinct election board or the** county election board. The absentee  
 23 ballot shall be marked "canceled" and preserved with the rejected  
 24 ballots.

25 SECTION 17. IC 3-11.7-5-2.5, AS ADDED BY P.L.103-2005,  
 26 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 UPON PASSAGE]: Sec. 2.5. (a) A voter who:

28 (1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26  
 29 as a result of the voter's inability or declination to provide proof  
 30 of identification; and

31 (2) cast a provisional ballot;

32 may personally appear before the circuit court clerk or the county  
 33 election board not later than the deadline specified by section 1 of this  
 34 chapter for the county election board to determine whether to count a  
 35 provisional ballot.

36 (b) Except as provided in subsection (c), ~~or (c)~~; if the voter:

37 (1) provides proof of identification to the circuit court clerk or  
 38 county election board; and

39 (2) executes an affidavit before the clerk or board, in the form  
 40 prescribed by the commission, affirming under the penalties of  
 41 perjury that the voter is the same individual who:

42 (A) personally appeared before the precinct election board;

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1 and  
2 (B) cast the provisional ballot on election day;  
3 the county election board shall find that the voter's provisional ballot  
4 is valid and direct that the provisional ballot be opened under section  
5 4 of this chapter and processed in accordance with this chapter.  
6 (c) If the voter executes an affidavit before the circuit court clerk or  
7 county election board, in the form prescribed by the commission;  
8 affirming under the penalties of perjury that:  
9 (1) the voter is the same individual who:  
10 (A) personally appeared before the precinct election board;  
11 and  
12 (B) cast the provisional ballot on election day; and  
13 (2) the voter:  
14 (A) is:  
15 (i) indigent; and  
16 (ii) unable to obtain proof of identification without the  
17 payment of a fee; or  
18 (B) has a religious objection to being photographed;  
19 the county election board shall determine whether the voter has been  
20 challenged for any reason other than the voter's inability or declination  
21 to present proof of identification to the precinct election board.  
22 (d) If the county election board determines that the voter described  
23 in subsection (c) has been challenged solely for the inability or  
24 declination of the voter to provide proof of identification, the county  
25 election board shall:  
26 (1) find that the voter's provisional ballot is valid; and  
27 (2) direct that the provisional ballot be:  
28 (A) opened under section 4 of this chapter; and  
29 (B) processed in accordance with this chapter.  
30 (e) (c) If the county election board determines that a voter described  
31 in subsection (b) or (c) has been challenged for a cause other than the  
32 voter's inability or declination to provide proof of identification, the  
33 board shall:  
34 (1) note on the envelope containing the provisional ballot that the  
35 voter has complied with the proof of identification requirement;  
36 and  
37 (2) proceed to determine the validity of the remaining challenges  
38 set forth in the challenge affidavit before ruling on the validity of  
39 the voter's provisional ballot.  
40 (f) (d) If a voter described by subsection (a) fails by the deadline for  
41 counting provisional ballots referenced in subsection (a) to:  
42 (1) appear before the county election board; and

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(2) execute an affidavit in the manner prescribed by subsection (b); ~~or (c);~~  
the county election board shall find that the voter's provisional ballot is invalid.

SECTION 18. IC 3-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to votes cast by any method.

(b) Except as provided in section 13 of this chapter, a ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer ~~may nevertheless~~ **shall** be counted ~~in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11~~ unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. ~~by a party to the proceeding.~~

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

SECTION 19. IC 3-12-4-18, AS AMENDED BY P.L.221-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. If electronic voting systems are used in a precinct, the county election board may ~~request authorization from the state recount commission to~~ inspect the registering counter or other recording device on any electronic voting system showing the number of votes cast for any candidate or public question. ~~If authorized by the state recount commission,~~ The board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

SECTION 20. IC 5-10.1-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 9. (a) Services performed by an election official or an election worker for calendar year 2007 in which the remuneration paid for such services is less than one thousand three hundred dollars (\$1,300), and for each calendar year after 2007 in which the remuneration paid is less than the adjusted amount, as described in subsection (b), beginning with services performed in the year that this modification was mailed or delivered by other means to the Commissioner of Social Security.**

**(b) The one thousand three hundred dollar (\$1,300) limit on the excludable amount of remuneration paid in a calendar year for the services specified in this modification will be subject to adjustment**

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for calendar years after 2007 to reflect changes in wages in the economy without any further modification of the agreement, with respect to such services performed during such calendar years, in accordance with Section 218(c)(8)(B) of the Social Security Act.

(c) This exclusion applies to all coverage groups of the state and its political subdivisions currently (as of the date this modification is executed), including under this agreement and to which the agreement is hereafter made applicable.

SECTION 21. IC 20-23-8-10, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A change in a plan may be initiated by one (1) of the following procedures:

(1) By filing a petition signed by at least ~~twenty ten~~ percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation with the clerk of the circuit court.

(2) By a resolution adopted by the governing body of the school corporation.

(3) By ordinance adopted by a city legislative body under section 13 of this chapter.

(b) A petition, resolution, or ordinance must set forth a description of the plan that conforms with section 7 of this chapter.

(c) ~~Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000), a change in a plan may be initiated by filing a petition signed by ten percent (10%) or more of the voters of the school corporation with the clerk of the circuit court.~~

SECTION 22. IC 20-23-8-14, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Not more than ten (10) days after a governing body has:

(1) initiated;

(2) approved; or

(3) disapproved;

a plan initiated by the petition filed with it, the governing body shall publish a notice one (1) time in a newspaper of general circulation in the county of the school corporation. If a newspaper of general circulation is not published in the county of the school corporation, the governing body shall publish a notice one (1) time in a newspaper of general circulation published in a county adjoining the county of the school corporation.

(b) The notice must set out the text of a plan initiated by the governing body or another plan filed with the governing body before

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the preparation of the notice. The notice must also state the right of a voter, as provided in this section, to file a petition for alternative plans or a petition protesting the adoption of a plan or plans to which the notice relates.

(c) If the governing body fails to publish a notice required by this section, the governing body shall, not more than five (5) days after the expiration of the ten (10) day period for publication of notice under this section, submit the petition that has been filed with the clerk to the state board, whether or not the plan contained in the petition or the petition meets the requirements of this chapter.

(d) Not later than one hundred twenty (120) days after the publication of the notice, voters of the school corporation may file with the clerk a petition protesting a plan initiated or approved by the governing body or a petition submitting an alternative plan as follows:

(1) A petition protesting a plan shall be signed by at least ~~twenty~~ **ten percent (20%) (10%)** of the **active voters (as defined in IC 3-5-2-1.7)** of the school corporation or five hundred (500) voters of the school corporation, whichever is less.

(2) A petition submitting an alternative plan ~~shall~~ **must** be signed by at least ~~twenty~~ **ten percent (20%) (10%)** of the **active voters (as defined in IC 3-5-2-1.7)** of the school corporation.

A petition filed under this subsection shall be certified by the clerk and shall be filed with the governing body in the same manner as is provided for a petition in section 11 of this chapter.

(e) The governing body or the voters may not initiate or file additional plans until the plans that were published in the notice or submitted as alternative plans not later than one hundred twenty (120) days after the publication of the notice have been disposed of by:

- (1) adoption;
- (2) defeat at a special election held under section 16 of this chapter; or
- (3) combination with another plan by the state board under section 15 of this chapter.

SECTION 23. IC 3-14-2-29 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 24. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1804, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-40.5, AS ADDED BY P.L.109-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40.5. "Proof of identification" refers to a document that satisfies all the following:

- (1) The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.
- (2) The document shows a photograph of the individual to whom the document was issued.
- (3) The document includes an expiration date, and the document:
  - (A) is not expired; or
  - (B) expired after the date of the most recent general election.
- (4) The document was issued by **any of the following:**
  - (A) The United States. **or Notwithstanding subdivision (3), a document issued by the United States Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana National Guard that:**
    - (i) otherwise complies with the requirements of this section; and
    - (ii) has no expiration date or states that the document has an indefinite expiration date;**is sufficient proof of identification for purposes of this title.**
  - (B) The state of Indiana.
  - (C) An approved institution of higher learning (as defined in IC 20-12-21-3).

SECTION 2. IC 3-5-4.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) **This section applies to an absentee ballot cast by an individual confined in a long term care facility.**

(b) **A person may not challenge the right of an individual to vote at an election by absentee ballot solely on the basis that the address on the individual's application for an absentee ballot differs from the address shown on the individual's voter registration record.**

SECTION 3. IC 3-10-1-7.2, AS AMENDED BY P.L.164-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 7.2. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at a primary election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in a primary election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22.1, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

**(e) A voter described by either of the following is not required to provide proof of identification before voting in a primary election:**

**(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. is not required to provide proof of identification before voting in a primary election.**

**(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:**

**(A) The voter is:**

**(i) indigent; and**

**(ii) unable to obtain proof of identification without the payment of a fee.**

**(B) The voter has a religious objection to being photographed."**

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 5. IC 3-11-3-22, AS AMENDED BY P.L.164-2006, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) Each county election board shall have printed in at least 14 point type on cards in English, ~~braille~~, and any

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other language that the board considers necessary, the following:

- (1) Instructions for the guidance of voters in preparing their ballots.
- (2) Instructions explaining the procedure for write-in voting.
- (3) Write-in voting notice cards that must be posted in each precinct that utilizes a voting system that does not permit a voter to alter the voter's ballot after making a voting mark for a write-in candidate so that the voter may vote for a candidate for that office whose name appears on the ballot.

(b) The write-in notice cards described in subsection (a)(3) must inform all voters that a voter:

- (1) who wants to cast write-in votes may cast the voter's ballot on the voting system required to be available to all voters in the precinct under IC 3-11-15-13.3(e); and
- (2) may choose to cast the voter's ballot on the voting system described in subdivision (1) without being required to indicate to any individual that the voter wishes to cast a ballot on the voting system because the voter intends to cast a ballot for a write-in candidate.

(c) The board shall furnish the number of cards it determines to be adequate for each precinct to the inspector at the same time the board delivers the ballots for the precinct and shall furnish a magnifier upon request to a voter who requests a magnifier to read the cards.

SECTION 6. IC 3-11-4-17.5, AS AMENDED BY P.L.164-2006, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true; and
- (3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. If the application is submitted by a voter wanting to cast an absentee ballot under IC 3-11-10-26, the voter shall be permitted to cast an absentee ballot, and the voter's absentee ballot shall be treated as a provisional ballot.

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(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or

(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with Indiana or federal law;

as alleged under section 18.5 of this chapter, the county election board shall deny the application.

(c) ~~This subsection applies to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d);~~ If the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

(1) not later than forty-eight (48) hours after the application is denied; and

(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

**The notice must include information telling the applicant how the application can be corrected and can be approved, if possible.**

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and

(2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

(e) If the applicant:

(1) is a voter of the precinct according to the registration record;

(2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and

(3) provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

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the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 7. IC 3-11-8-25.1, AS AMENDED BY P.L.164-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22.1 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

**(e) A voter described by either of the following is not required to provide proof of identification before voting in an election:**

**(1) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides. is not required to provide proof of identification before voting in an election.**

**(2) A voter who executes an affidavit, in the form prescribed by the commission, affirming under the penalties of perjury that the voter satisfies either of the following:**

**(A) The voter is:**

- (i) indigent; and**
- (ii) unable to obtain proof of identification without the payment of a fee.**

**(B) The voter has a religious objection to being photographed.**

(f) After a voter has passed the challengers or has been sworn in, the

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voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) Except as provided in subsection (k), the voter's current residence address.
- (g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:
  - (1) ask the voter to provide or update the voter's voter identification number;
  - (2) tell the voter the number the voter may use as a voter identification number; and
  - (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.
- (h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.
- (i) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.
- (j) If, in a precinct governed by subsection (g):
  - (1) the poll clerk does not execute a challenger's affidavit; or
  - (2) the voter executes a challenged voter's affidavit under section 22.1 of this chapter or executed the affidavit before signing the poll list;
 the voter may then vote.
- (k) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list.

SECTION 8. IC 3-11-10-4, AS AMENDED BY P.L.198-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Upon receipt of an absentee ballot, a

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county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the ~~application for the absentee ballot~~ **voter's affidavit of registration**. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax or electronic mail under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the ~~application for the absentee ballot~~ **voter's affidavit of registration**. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 9. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. **The board may enclose in the same carrier envelope all absentee ballot envelopes and voter applications to be transmitted to the same precinct.**

(b) The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 10. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

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(b) The absentee ballots shall be delivered during the hours that the polls are open. ~~and in sufficient time to enable~~ The precinct election boards ~~to shall~~ vote the ballots **received** during the time the polls are open. **Any ballots received by the precinct election board after the polls are closed shall be returned to the county election board for counting under section 14 of this chapter.**

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

- (1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and
- (2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

- (1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and
- (2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

- (1) 42 U.S.C. 1973ff for federal offices; and
- (2) IC 3-11-4-12(a) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 11. IC 3-11-10-14, AS AMENDED BY P.L.198-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** Subject to section 11 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after the county election board has started the final delivery of the ballots to the precincts on election day **shall be**

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delivered to the county election board for counting.

(b) An absentee ballot delivered to the county election board under subsection (a) shall be counted by the county election board if the ballot is not otherwise successfully challenged under this title.

(c) The election returns from the precinct shall be adjusted to reflect the votes on an absentee ballot required to be counted under subsection (b).

(d) Except as provided in subsection (e), absentee ballots received by the county election board after the close of the polls on election day are considered as arriving too late and ~~need~~ may not be delivered to the polls: counted.

(e) Absentee ballots received by the precinct election board as described in section 12(b) of this chapter after the close of the polls shall be returned to the county election board and be counted as provided in this section.

SECTION 12. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall do all of the following:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name.
- (3) Compare the signature upon the ~~application~~ voter's affidavit of registration with the signature upon the affidavit on the ballot envelope or transmitted affidavit attached to the ballot envelope.

SECTION 13. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

- (1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and
- (2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than ~~twenty-nine~~

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~~(29)~~ **twenty-eight (28)** days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than ~~twenty-nine (29)~~ **twenty-eight (28)** days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or

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(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

**(j) The county election board, by unanimous vote of the entire membership of the board, may adopt a resolution providing that absentee ballots be cast at satellite offices instead of in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2).**

SECTION 14. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the ~~application with the signature upon the affidavit~~ on the ballot envelope or transmitted affidavit **with the signature on the voter's affidavit of registration.**

SECTION 15. IC 3-11.5-4-10, AS AMENDED BY P.L.198-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after ~~noon~~ **the close of the polls** on election day are considered as arriving too late and may not be counted.

SECTION 16. IC 3-11.5-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. If a voter has not returned an absentee ballot, the voter may vote in person. However, before the voter may vote, the voter must return the ballot to the **precinct election board or the** county election board. The absentee ballot shall be marked "canceled" and preserved with the rejected ballots.

SECTION 17. IC 3-11.7-5-2.5, AS ADDED BY P.L.103-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) A voter who:

- (1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and
- (2) cast a provisional ballot;

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may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c), ~~or (c)~~, if the voter:

(1) provides proof of identification to the circuit court clerk or county election board; and

(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

~~(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:~~

~~(1) the voter is the same individual who:~~

~~(A) personally appeared before the precinct election board; and~~

~~(B) cast the provisional ballot on election day; and~~

~~(2) the voter:~~

~~(A) is:~~

~~(i) indigent; and~~

~~(ii) unable to obtain proof of identification without the payment of a fee; or~~

~~(B) has a religious objection to being photographed;~~

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

~~(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:~~

~~(1) find that the voter's provisional ballot is valid; and~~

~~(2) direct that the provisional ballot be:~~

~~(A) opened under section 4 of this chapter; and~~

~~(B) processed in accordance with this chapter.~~

~~(e) (c) If the county election board determines that a voter described in subsection (b) ~~or (c)~~ has been challenged for a cause other than the~~

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voter's inability or declination to provide proof of identification, the board shall:

- (1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and
- (2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

~~(f)~~ **(d)** If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

- (1) appear before the county election board; and
- (2) execute an affidavit in the manner prescribed by subsection (b); ~~or (c)~~;

the county election board shall find that the voter's provisional ballot is invalid.

SECTION 18. IC 3-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to votes cast by any method.

(b) Except as provided in section 13 of this chapter, a ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer ~~may nevertheless~~ **shall** be counted ~~in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11~~ unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented. ~~by a party to the proceeding.~~

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

SECTION 19. IC 3-12-4-18, AS AMENDED BY P.L.221-2005, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. If electronic voting systems are used in a precinct, the county election board may ~~request authorization from the state recount commission to~~ inspect the registering counter or other recording device on any electronic voting system showing the number of votes cast for any candidate or public question. ~~If authorized by the state recount commission,~~ The board may conduct an inspection either before it proceeds to count and tabulate the vote or within one (1) day after the count and tabulation are finished.

SECTION 20. IC 5-10.1-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 9. (a) Services**



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performed by an election official or an election worker for calendar year 2007 in which the remuneration paid for such services is less than one thousand three hundred dollars (\$1,300), and for each calendar year after 2007 in which the remuneration paid is less than the adjusted amount, as described in subsection (b), beginning with services performed in the year that this modification was mailed or delivered by other means to the Commissioner of Social Security.

(b) The one thousand three hundred dollar (\$1,300) limit on the excludable amount of remuneration paid in a calendar year for the services specified in this modification will be subject to adjustment for calendar years after 2007 to reflect changes in wages in the economy without any further modification of the agreement, with respect to such services performed during such calendar years, in accordance with Section 218(c)(8)(B) of the Social Security Act.

(c) This exclusion applies to all coverage groups of the state and its political subdivisions currently (as of the date this modification is executed), including under this agreement and to which the agreement is hereafter made applicable.

SECTION 21. IC 20-23-8-10, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A change in a plan may be initiated by one (1) of the following procedures:

- (1) By filing a petition signed by at least ~~twenty ten~~ percent ~~(20%)~~ **(10%)** of the **active** voters **(as defined in IC 3-5-2-1.7)** of the school corporation with the clerk of the circuit court.
- (2) By a resolution adopted by the governing body of the school corporation.
- (3) By ordinance adopted by a city legislative body under section 13 of this chapter.

(b) A petition, resolution, or ordinance must set forth a description of the plan that conforms with section 7 of this chapter.

(c) Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred ~~(59,700)~~ but less than sixty-five thousand ~~(65,000)~~, a change in a plan may be initiated by filing a petition signed by ten percent ~~(10%)~~ or more of the voters of the school corporation with the clerk of the circuit court.

SECTION 22. IC 20-23-8-14, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Not more than ten (10) days after a governing body has:

- (1) initiated;

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(2) approved; or

(3) disapproved;

a plan initiated by the petition filed with it, the governing body shall publish a notice one (1) time in a newspaper of general circulation in the county of the school corporation. If a newspaper of general circulation is not published in the county of the school corporation, the governing body shall publish a notice one (1) time in a newspaper of general circulation published in a county adjoining the county of the school corporation.

(b) The notice must set out the text of a plan initiated by the governing body or another plan filed with the governing body before the preparation of the notice. The notice must also state the right of a voter, as provided in this section, to file a petition for alternative plans or a petition protesting the adoption of a plan or plans to which the notice relates.

(c) If the governing body fails to publish a notice required by this section, the governing body shall, not more than five (5) days after the expiration of the ten (10) day period for publication of notice under this section, submit the petition that has been filed with the clerk to the state board, whether or not the plan contained in the petition or the petition meets the requirements of this chapter.

(d) Not later than one hundred twenty (120) days after the publication of the notice, voters of the school corporation may file with the clerk a petition protesting a plan initiated or approved by the governing body or a petition submitting an alternative plan as follows:

(1) A petition protesting a plan shall be signed by at least ~~twenty ten~~ **ten percent (20%) (10%)** of the **active voters (as defined in IC 3-5-2-1.7)** of the school corporation or five hundred (500) voters of the school corporation, whichever is less.

(2) A petition submitting an alternative plan ~~shall~~ **must** be signed by at least ~~twenty ten~~ **ten percent (20%) (10%)** of the **active voters (as defined in IC 3-5-2-1.7)** of the school corporation.

A petition filed under this subsection shall be certified by the clerk and shall be filed with the governing body in the same manner as is provided for a petition in section 11 of this chapter.

(e) The governing body or the voters may not initiate or file additional plans until the plans that were published in the notice or submitted as alternative plans not later than one hundred twenty (120) days after the publication of the notice have been disposed of by:

(1) adoption;

(2) defeat at a special election held under section 16 of this chapter; or

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(3) combination with another plan by the state board under section 15 of this chapter.

SECTION 23. IC 3-14-2-29 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 24. **An emergency is declared for this act."**

Delete page 3.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1804 as introduced.)

PIERCE, Chair

Committee Vote: yeas 8, nays 0.

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